

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FEDERAL TRADE COMMISSION,

Petitioner,

v.

NETLATITUDE, INC.,

Respondent.

Case No. _____

**PETITION TO ENFORCE CIVIL
INVESTIGATIVE DEMAND**

1. Petitioner Federal Trade Commission (“FTC” or “the Commission”) brings this action to enforce a civil investigative demand (CID) issued to Respondent Netlatitude, Inc. (“Respondent” or “Netlatitude”), pursuant to Section 20 of the FTC Act, 15 U.S.C. § 57b-1.

2. In support of its petition, the FTC simultaneously submits its Memorandum of Law in Support of Petition to Enforce Civil Investigative Demand along with the Declaration of Miles D. Freeman in Support of Petition to Enforce Civil Investigative Demand (“Freeman Decl.”) and exhibits thereto (“Pet. Ex.”).

JURISDICTION & VENUE

3. This Court has subject matter jurisdiction to enforce the FTC’s CID. 15 U.S.C. § 57b-1(e), (h); 28 U.S.C. §§ 1331, 1337(a), 1345.

4. This Court has personal jurisdiction over Respondent and venue is proper in this District because Respondent is found, resides or transacts business in this district. 15 U.S.C. § 57b-1(e); 28 U.S.C. § 1391.

THE PARTIES

5. Petitioner FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5 of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce, and the Telemarketing Sales Rule, 16 C.F.R. § 310, which prohibits deceptive and abusive telemarketing practices.

6. The FTC is authorized to issue process (including CIDs) requesting materials, answers to interrogatories, and sworn testimony in an investigation to determine if any natural person, partnership, corporation, association, or other legal entity is or has been engaged in unfair or deceptive acts or practices in or affecting commerce. 15 U.S.C. § 57b-1(c). The FTC is also authorized to investigate and to initiate proceedings to prohibit such activities where appropriate. 15 U.S.C. §§ 46(a), 53(b).

7. Respondent Netlatitude, Inc. is a Texas corporation with its registered office address at 11917 Knippwood Lane, Houston, TX 77024. *See* Pet. Ex. 4.

THE FTC'S INVESTIGATION & CID

8. On April 1, 2016, the FTC issued a Resolution Directing Use of Compulsory Process in a Nonpublic Investigation of Telemarketers, Sellers, Suppliers, or Others (“the Resolution”). The purpose of the investigations authorized by the Resolution are:

To determine whether unnamed telemarketers, sellers, or others assisting them have engaged or are engaging in: (1) unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45 (as amended; and/or (2) deceptive or abusive telemarketing acts or practices in violation of the Commission’s Telemarketing Sales Rule, 16 C.F.R. pt 310 (as amended), including but not limited to the provision of substantial assistance or support – such as mailing lists, scripts, merchant accounts, and other information, products,

or services – to telemarketers engaged in unlawful practices. The investigation is also to determine whether Commission action to obtain monetary relief would be in the public interest.

Pet. Ex. 1.

9. Netlatitude provides Voice over Internet Protocol (VoIP) telephone services which allow callers to place telephone calls over the Internet instead of via a traditional telephone line connection. On January 8, 2021, the FTC, pursuant to the Resolution, issued a CID to Netlatitude seeking documents and information regarding potentially illegal telemarketing calls made to consumers using Netlatitude’s VoIP services and Netlatitude’s efforts to ensure compliance with the Telemarketing Sales Rule. *See* Pet. Ex. 2.

10. The FTC served the CID on Netlatitude by delivering it to Netlatitude’s registered agent, Edward Gertner, at the addresses provided by Netlatitude in its filings with the Texas Secretary of State and by delivering the CID to several other addresses registered by or associated with Netlatitude and its President, Kurt Hannigan. *See* Pet. Exs. 4 & 8.

11. Netlatitude was required to respond to the CID by February 8, 2021 but failed to do so. Pet. Ex. 2 at 4; Freeman Decl. at ¶¶ 7, 11. On February 19, the FTC emailed Netlatitude’s President, Kurt Hannigan, at an email address that Netlatitude had provided to another VoIP services provider and a telecommunications trade association and provided him with an electronic copy of the CID. *See* Pet. Ex. 6. The email was successfully transmitted but Mr. Hannigan did not respond. Freeman Decl. at ¶ 8. FTC staff also attempted to call Netlatitude’s offices to inquire regarding the CID but was unsuccessful in reaching anyone. Freeman Decl. at ¶ 10.

12. To date, Netlatitude has failed to respond to the CID. Freeman Decl. at ¶ 11.

13. Netlatitude's failure to comply with the CID has materially impeded the FTC's investigation. *Id.*

14. As set forth in greater detail in the attached Memorandum of Law, the CID is within the statutory authority of the agency, complies with the requisite procedural requirements, is reasonably relevant to the FTC's investigation, and is not unreasonably broad or burdensome. Therefore, the CID qualifies for judicial enforcement.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff FTC, pursuant to 15 U.S.C. § 57b-1 and the Court's own equitable powers, respectfully requests that the Court:

- A. Issue an order, substantially in the form attached, directing Netlatitude to comply with the CID or to show cause why it should not be required to comply with the CID;
- B. In the event that Netlatitudutde does not comply with the CID, prompt determination of this matter and entry of an order directing Netlatitudutde to comply with the CID within 10 days of entry of such order; and
- C. Any other relief as this Court deems just and proper.

Respectfully submitted,

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Dated: May 28, 2021

/s/ Miles D. Freeman

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